

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
CLERK

2:08 pm, Feb 25, 2020

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ANN MARIE GRUMM,

U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

Plaintiff,

-against-

ORDER
20-CV-00294 (GRB)

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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GARY R. BROWN, United States District Judge:

On January 16, 2020, Ann Marie Grumm (“plaintiff”) commenced this action against the Commissioner of Social Security (“defendant”) seeking review of the decision of the Administrative Law Judge pursuant to section 205(g) and/or section 1631(c)(3) of the Social Security Act, as amended, 42 U.S.C. § 405(g) and/or § 1383(c)(3). Accompanying the complaint is an application to proceed *in forma pauperis*. (See Docket Entry No. 2.) For the reasons that follow, plaintiff’s application to proceed *in forma pauperis* is denied without prejudice and with leave to renew upon filing the enclosed “Application to Proceed in District Court without Prepaying Fees or Costs (Long Form)” (AO 239). Alternatively, plaintiff may pay the \$400.00 filing fee.

To qualify for *in forma pauperis* status, the Supreme Court has long held that “an affidavit is sufficient which states that one cannot because of his poverty pay or give security for the costs [inherent in litigation] and still be able to provide himself and dependents with the necessities of life.” *Adkins v. E.I. Du Pont De Nemours & Co.*, 335 U.S. 331, 339, 69 S. Ct. 85, 93 L. Ed. 43 (1948) (internal quotation marks omitted). Plaintiff’s application does not include sufficient information for the Court to make such finding.

Plaintiff avers that she has \$350.00 in a checking or savings account and indicates that, in the past twelve (12) months, she has received income from an “annuity [], MetLife, Voya [and]

real estate" as well as from "gifts inheritance." (*Id.* ¶¶ 3(c), (e), 4.) Plaintiff lists the "Met Life Annuity = \$6,000", the "Inherited Annuity = 20,000", and "1/5 of a house valued at 300,000.00 that is currently in Estate = 60,000." (*Id.* at ¶ 5.) Plaintiff does not report any housing expenses although she provides a residential address of 14 Roxbury Avenue, Oakdale, New York, and indicates approximately \$600.00 in other regular monthly expenses which appears to be utilities. (*Id.* ¶ 6.) Although plaintiff also lists some debts or other financial obligations in response to question 8, the breakdown of such obligations as provided by plaintiff does not add to the amounts reported on the form. (*Id.* ¶ 8.) Thus, plaintiff's application raises more questions than it answers.

Given that plaintiff has not provided sufficient information for the Court to assess her financial position, the Court finds that plaintiff can best set forth her current financial position on the Application to Proceed in District Court without Prepaying Fees or Costs (Long Form)" (AO 239). Accordingly, plaintiff's application to proceed *in forma pauperis* is denied without prejudice and with leave to renew upon filing the enclosed "Application to Proceed in District Court without Prepaying Fees or Costs (Long Form)" (AO 239). Alternatively, plaintiff may pay the \$400.00 filing fee. Plaintiff shall either file the Long Form or remit the filing fee within two (2) weeks of the date of this Order or this action will be dismissed without prejudice.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith and therefore *in forma pauperis* status is denied for the purpose of any appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45, 82 S. Ct. 917, 8 L. Ed. 2d 21 (1962). The Clerk of the Court is directed to mail a copy of this Order to the *pro se* plaintiff.

SO ORDERED.

/s Gary R. Brown

Gary R. Brown
United States District Judge

Dated: February 25, 2020
Central Islip, New York

UNITED STATES DISTRICT COURT
for the

Plaintiff/Petitioner
 v.

Defendant/Respondent _____)
 _____)
 _____) Civil Action No.
 _____)
 _____)

APPLICATION TO PROCEED IN DISTRICT COURT WITHOUT PREPAYING FEES OR COSTS
(Long Form)

Affidavit in Support of the Application

I am a plaintiff or petitioner in this case and declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief requested. I declare under penalty of perjury that the information below is true and understand that a false statement may result in a dismissal of my claims.

Signed: _____

Instructions

Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0," "none," or "not applicable (N/A)," write that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case's docket number, and the question number.

Date: _____

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly income amount during the past 12 months		Income amount expected next month	
	You	Spouse	You	Spouse
Employment	\$	\$	\$	\$
Self-employment	\$	\$	\$	\$
Income from real property (<i>such as rental income</i>)	\$	\$	\$	\$
Interest and dividends	\$	\$	\$	\$
Gifts	\$	\$	\$	\$
Alimony	\$	\$	\$	\$
Child support	\$	\$	\$	\$

AO 239 (Rev. 01/15) Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form)

Retirement (such as social security, pensions, annuities, insurance)	\$	\$	\$	\$
Disability (such as social security, insurance payments)	\$	\$	\$	\$
Unemployment payments	\$	\$	\$	\$
Public-assistance (such as welfare)	\$	\$	\$	\$
Other (specify):	\$	\$	\$	\$
Total monthly income:	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00

2. List your employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of employment	Gross monthly pay
			\$
			\$

3. List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of employment	Gross monthly pay
			\$
			\$
			\$

4. How much cash do you and your spouse have? \$ _____

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial institution	Type of account	Amount you have	Amount your spouse has
		\$	\$
		\$	\$
		\$	\$

If you are a prisoner, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

AO 239 (Rev. 01/15) Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form)

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

Assets owned by you or your spouse	
Home (<i>Value</i>)	\$
Other real estate (<i>Value</i>)	\$
Motor vehicle #1 (<i>Value</i>)	\$
Make and year:	
Model:	
Registration #:	
Motor vehicle #2 (<i>Value</i>)	\$
Make and year:	
Model:	
Registration #:	
Other assets (<i>Value</i>)	\$
Other assets (<i>Value</i>)	\$

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
	\$	\$
	\$	\$
	\$	\$

7. State the persons who rely on you or your spouse for support.

Name (or, if under 18, initials only)	Relationship	Age

AO 239 (Rev. 01/15) Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form)

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.

	You	Your spouse
Rent or home-mortgage payment (<i>including lot rented for mobile home</i>) Are real estate taxes included? <input type="checkbox"/> Yes <input type="checkbox"/> No Is property insurance included? <input type="checkbox"/> Yes <input type="checkbox"/> No	\$	\$
Utilities (<i>electricity, heating fuel, water, sewer, and telephone</i>)	\$	\$
Home maintenance (<i>repairs and upkeep</i>)	\$	\$
Food	\$	\$
Clothing	\$	\$
Laundry and dry-cleaning	\$	\$
Medical and dental expenses	\$	\$
Transportation (<i>not including motor vehicle payments</i>)	\$	\$
Recreation, entertainment, newspapers, magazines, etc.	\$	\$
Insurance (<i>not deducted from wages or included in mortgage payments</i>) Homeowner's or renter's: Life: Health: Motor vehicle: Other:	\$	\$
Taxes (<i>not deducted from wages or included in mortgage payments</i>) (<i>specify</i>):	\$	\$
Installment payments Motor vehicle: Credit card (<i>name</i>): Department store (<i>name</i>): Other:	\$	\$
Alimony, maintenance, and support paid to others	\$	\$

AO 239 (Rev. 01/15) Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form)

Regular expenses for operation of business, profession, or farm (<i>attach detailed statement</i>)	\$	\$
Other (<i>specify</i>):	\$	\$
Total monthly expenses:	\$ 0.00	\$ 0.00

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?
 Yes No If yes, describe on an attached sheet.

10. Have you spent — or will you be spending — any money for expenses or attorney fees in conjunction with this lawsuit? Yes No
If yes, how much? \$ _____

11. Provide any other information that will help explain why you cannot pay the costs of these proceedings.

12. Identify the city and state of your legal residence.

Your daytime phone number: _____

Your age: _____ Your years of schooling: _____